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In re Application of :
DE KEERSMAECKER, Koen :
Application No.: 10/583,640 :
PCT No.: PCT/BE2004/000182 :
Int. Filing Date: 22 December 2004 : DECISION
Priority Date: 22 December 2003 :
Docket No.: IMEC320.001 APC :
For: THE USE OF MICROELECTRIC :
STRUCTURES FOR PATTERNED :
DEPOSITION OF MOLECULES :
ONTO SURFACES :

This application is before the Office of PCT Legal Administration for matters arising under 35 USC 371.

BACKGROUND

Applicants filed a declaration of the inventors along with the basic national fee on 20 June 2006. The declaration contained one page 1 and two pages 2. The pages listed the same inventor, but were separately executed. This indicates that multiple copies of the declaration were pieced together to create a single composite declaration. This is not permitted.

On 19 March 2007, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration of the inventors was required and that the declaration previously submitted included an inventor not listed on the published international application.

On 27 April 2007, applicants submitted a new declaration with all the pages, listing the same three inventors.

On 23 November 2007, the Office mailed Notification of Defective Response (Form PCT/DO/EO/916), indicating that the third named inventors was not listed on the international publication.

DISCUSSION

While the inventor was not listed on the published international, he was added under PCT Rule 92bis during the international phase, though the forms indicating the change were not

present in the file. Under 37 CFR 1.41(a)(4), the inventorship of the international application entering the national stage under 35 U.S.C. 371 is that inventorship set forth in the international application, which includes any change effected under PCT Rule 92*bis*.

As such, the Notification of Defective Response (Form PCT/DO/EO/916) mailed 23 November 2007, issued in error and is hereby **VACATED**.

CONCLUSION

This application is being referred to the National Stage Processing Branch of the Office of Patent Application Processing for further action consistent with this decision.

/Erin P. Thomson/

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